

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**M.D., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
San Francisco, CA, Employer**

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**Docket No. 18-1365  
Issued: March 12, 2019**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

CHRISTOPHER J. GODFREY, Chief Judge  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On July 2, 2018 appellant filed a timely appeal from a June 18, 2018 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant has met her burden of proof to establish an injury in the performance of duty.

**FACTUAL HISTORY**

On March 19, 2018 appellant, then a 54-year-old mail clerk, filed an occupational disease claim (Form CA-2) alleging bilateral carpal tunnel syndrome (CTS) as a result of her repetitive federal employment duties. She explained that her repetitive work duties caused pain in her left

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

wrist, hand, and shoulder which worsened over time. Appellant reported that her left wrist, hand, and fingers experienced tingling, pain, numbness, and loss of sensation which radiated into her arm and shoulder. She noted that she first became aware of her claimed condition and of its relationship to her federal employment on February 2, 2018.

In an accompanying narrative statement, appellant reported that she began working for the employing establishment in 1988. She described the various positions she had held and the requisite employment duties. Appellant's repetitive employment duties included loading and clearing mail from machine bins, repeated lifting and loading letter trays to and from machines, scanning mail, keying mail through use of a keyboard, breaking down mail, transferring mail to containers, replacing and tying sacks, unloading mail from containers, and sorting mail. She reported that these repetitive employment duties caused pain in her wrist, hand, and shoulder.

In a February 2, 2018 electromyography (EMG) and nerve conduction velocity (NCV) study, Dr. Chi-Chen Mao, a Board-certified neurologist, reported that testing revealed evidence of moderate bilateral CTS, worse on the right side.

On March 20, 2018 the employing establishment notified OWCP by letter that appellant had previously filed two occupational disease claims for the same injury, which were denied under OWCP File Nos. xxxxxx005 and xxxxxx262.<sup>2</sup> The employing establishment argued that fact of injury had not been established and requested this claim, OWCP File No. xxxxxx041, be administratively combined with OWCP File No. xxxxxx005.

In a development letter dated April 3, 2018, OWCP informed appellant that the evidence of record was insufficient to establish her claim. It advised appellant of the type of factual and medical evidence needed and provided a questionnaire for her completion. OWCP requested that she describe all prior injuries to the hand, arm, or wrist. It asked that appellant explain how this February 2, 2018 injury differed from her prior claims filed with a February 23, 2011 date of injury under OWCP File Nos. xxxxxx262 and xxxxxx005. OWCP afforded her 30 days to provide the requested information.

On April 9, 2018 appellant responded to OWCP's questionnaire. She asserted that her repetitive employment duties caused her left wrist CTS which was diagnosed on February 2, 2018. Appellant described her employment duties which included repetitive keying, feeding mail into machines, clearing mail from machines, lifting, tying sacks, gripping and bundling mail, and manually sorting mail over an eight-hour work shift. She noted that she experienced pain, numbness, loss of sensation, and burning which radiated to her arm and shoulder, causing her to seek treatment and undergo a nerve test on February 2, 2018 which revealed left wrist CTS. Appellant reported that her statements pertaining to her employment duties were also corroborated by her supervisor in an accompanying letter. She stated that her February 2, 2018 occupational disease claim was for a left wrist injury which she had never previously alleged. Appellant

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<sup>2</sup> On January 18, 2014 appellant filed a Form CA-2 alleging carpal tunnel syndrome as a result of her repetitive employment duties. OWCP assigned that claim File No. xxxxxx262. On December 13, 2017 appellant filed a Form CA-2 alleging carpal tunnel syndrome as a result of her repetitive employment duties. OWCP assigned that claim File No. xxxxxx005.

explained that her 2011 claims under OWCP File Nos. xxxxxx262 and xxxxxx005 related to her right wrist injury.

By letter dated April 9, 2018, S.W., appellant's supervisor, reported that her work activities included keying, lifting, tying sacks, feeding mail into machines, clearing mail from machines, and manually sorting mail. She concurred with appellant's statements pertaining to her work activities. S.W. further reported that she had recently been made aware of appellant's left wrist and arm complaints.

In support of her claim, appellant submitted medical reports dated February 2 through May 25, 2018.

By decision dated June 18, 2018, OWCP denied appellant's claim, finding that the evidence of record was insufficient to establish that the occupational exposures occurred as alleged.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was filed within the applicable time limitation, that an injury was sustained while in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.<sup>3</sup> These are the essential elements of every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.<sup>4</sup>

To establish that an injury was sustained in the performance of duty in a claim for occupational disease, an employee must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.<sup>5</sup>

### **ANALYSIS -- ISSUE 1**

The Board finds that this case is not in posture for a decision.

Appellant's prior occupational disease claims alleged a right wrist carpal tunnel injury. This claim, however, alleges a left wrist carpal tunnel condition as noted on her March 19, 2018 Form CA-2. On April 9, 2018 appellant responded to OWCP's April 3, 2018 development letter

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<sup>3</sup> *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>4</sup> *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>5</sup> See *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

and provided clarification that her current claim was for a left wrist injury not previously alleged. She reported that the two prior claims referenced by OWCP were filed for a right wrist injury stemming back to 2011.

The Board finds that appellant has sufficiently described her employment duties which entailed repetitive keying, feeding mail into machines, clearing mail from machines, lifting, tying sacks, gripping and bundling mail, and manually sorting mail over an eight-hour work shift.<sup>6</sup> Appellant's supervisor S.W. concurred with appellant's statement regarding her repetitive employment duties and complaints to the left wrist and arm.

The Board notes that appellant is not refiling a claim for the same injury as she has now alleged left wrist CTS as a result of her federal employment duties. Appellant has also alleged with specificity that the occupational exposure occurred at the time, place, and in the manner alleged.<sup>7</sup>

As appellant has alleged a new injury and has established occupational exposure, further consideration of the medical evidence is necessary.<sup>8</sup> For these reasons, the case will be remanded to OWCP for evaluation of the medical evidence to determine whether there is a causal relationship between the claimed carpal tunnel condition and the accepted factors of her federal employment. Following such further development as OWCP deems necessary, it shall issue a *de novo* decision.

### **CONCLUSION**

The Board finds that this case is not in posture for decision.

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<sup>6</sup> A.R., Docket No. 15-1716 (issued November 17, 2015).

<sup>7</sup> See *Willie J. Clements*, 43 ECAB 244 (1991).

<sup>8</sup> *C.f. Bonnie A. Contreas*, 57 ECAB 364, 368 n.10 (2006).

**ORDER**

**IT IS HEREBY ORDERED THAT** the June 18, 2018 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision.

Issued: March 12, 2019  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board